

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF PUERTO RICO

Ana R. Olivella Rivera

Plaintiff

vs.

**Popular Leasing and Rental, Inc
and others**

Defendants

District Court No.

3:98 cv-2267 JAG-GAG

REPLY TO MOTION REQUESTING SANCTIONS

To the Honorable Court:

Comes now defendants **Popular Auto, Inc** (formerly Popular Leasing & Rental, Inc.) and respectfully shows and prays:

1. Firstly we want to establish that our position is that this petty and inconsequential matter should not be before the Court, but since a request for sanctions is pending, we are obliged explain our side of the issue:
2. Now to the matter of the proposed pre trial order (PPT). This are the facts:
 - a. The Court ordered the parties to file an amended proposed pre trial by June 9, 2006. On June 6 the undersigned sent an email message addressed to Mrs Otero and to Mr. Oliveras inviting them to meet as soon as possible on our office. Mr. Oliveras did not answer our message.
 - b. From Wendsday 8, up to Friday the 9, Mrs. Ana María Otero

contacted Mr. Oliveras office. At last and she agreed with Oliveras to meet in his office on two different occasions. All dates were cancelled at the last minute by Mr Oliveras. And in each time was Mrs Otero or her secretary that advised that the meeting was called off by Oliveras.

- c. During this coordination process Mr Oliveras did not take any steps to call or coordinate with us or set up any meeting. He chose to totally ignore and exclude us. We were kept informed by the gracious and diligent help of Mrs. Otero.
- d. Yesterday afternoon, Mrs. Otero called us and told us that the meeting was in fact to be held at 4:30 at Oliveras office. Mrs. Otero informed us that Mr. Oliveras was with a client. We immediately took our car and left for Caguas. It was raining hard and there was a lot of traffic.
- e. A few minutes later while in the Caguas expressway, we called Oliveras and proposed him to start the meeting by phone conference, because we were trapped in a traffic jam; but we hoped to arrive at his office in less that twenty minutes. Oliveras told us that he had another meeting and had to leave; then he just hanged the phone on us.
- f. When we got to Mr. Oliveras office, we handed his secretary our business card but she told us that he had already left.
- g. Mrs. Otero informed us that he was in a hurry to leave and even left her in his office, and she had no alternative than to leave too. We then agreed to meet in the morning (today) to complete the PPT and

try to discuss it with Oliveras.

- h. This morning Mrs Otero and the undersigned met at Mrs. Otero's office. After revisions and corrections to the version of PPT submitted by Oliveras on may 31, 2006, we called Mr. Oliveras to discuss the matter. He said he was too busy to discuss the document; maybe drafting the request for sanctions that is being replied here.
 - i. A copy of our revised PPT draft, along with a list of stipulations of fact was sent by fax and email to Oliveras as he promised to call Mrs Otero at 6:00 PM to discuss the document.
 - j. Mr. Oliveras was advised that if by 7:00 PM we don't receive his call we will file our PPT to comply with the Court order.
 - k. When we arrived to our office we found the motion for sanctions in our mail.
 - l. At 7:00 PM today we agreed with Mrs. Otero that PPT was to be filed from her office tonight.
3. We think that the request for sanctions is unwarranted. The attorney from plaintiff is the one supposed to set up the meeting to amend de Pre Trial Report and made sure all parties were properly cited and present. He did nothing.
4. Mrs. Otero and the undersigned made much more efforts to comply with the order to submit the PPT on time and these efforts were sabotaged by plaintiff counsel.
5. Mr Oliveras even failed to email his amended PPT draft to us and he still has

not corrected our telephone numbers and e mail address. A correction that we have requested several times to him. Just check the notice certification on his latest motion, on which he states that he is notifying us by regular mail.

6. Mrs. Otero and the undersigned were available and willing to meet in time with Mr. Oliveras but he claimed that he was incredibly busy. We think it was unreasonable to at the last minute set up a meeting for late in the business day and then accepting another appointment leaving less than an hour to take care of the various matters covered in the PPT.
7. The fact is that the PPT is been filed on the due date established by the Court and we contributed our part.
8. A final personal note on this unpleasant affair.
 - a. We suspect Brother Counsel Rafael Oliveras has some personal grudge or animosity towards the undersigned. This could explain his lately harsh behavior against us.
 - b. He just mentioned to Mrs. Ana María Otero that he felt we somehow insulted him. We have never insulted Mrs Oliveras, but in the course of this lengthy litigation we have always treated him in a very courteous and friendly manner.
 - c. If we said or did something offensive to Mr. Oliveras, we sincerely apologize and hope that his attitude towards us is improves for the remainder of the case.

WHEREFORE, Defendants respectfully request that Honorable Court that

USDC Civil No. 98-2267 JAG

Page 5

Plaintiff's Motion Requesting Sanctions be denied.

I HEREBY CERTIFY that on this date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system which will send notification of such filing to the following: **Rafael A. Oliveras López, Esq.** and to **Ana María Otero, Esq.**

In San Juan, Puerto Rico, June 14, 2006.

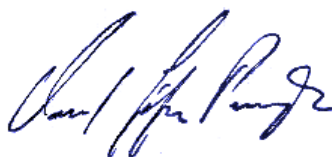
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A handwritten signature in blue ink, appearing to read 'David López-Pumarejo', is positioned above the printed name and contact information.

David López-Pumarejo, Esq.

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